

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

<div>----- X</div> <div><b>AMERICAN INSURANCE COMPANY</b> <b>a/s/o Mariah Carey, and Sinclair C.S.</b> <b>Beecham</b></div> <div><b>Plaintiffs,</b> <b>against</b></div> <div><b>CORN ASSOCIATES, LLC, THE</b> <b>FRANKLIN TOWER CONDOMINIUM,</b> <b>KATZ METAL FABRICATORS, INC., and</b> <b>SAMCO PLUMBING, INC.,</b> <b>Defendants.</b></div> <div>----- X</div>	<div><b>Docket No.: 1:07 cv 08604</b></div> <div><b>PLAINTIFF’S RULE 56.1</b> <b>STATEMENT OF FACTS</b></div>
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American Insurance Company a/s/o Mariah Carey and Sinclair C. S. Beecham, by its attorneys, Cozen O’Connor, provide the following statement of material facts to which plaintiff contends there is no genuine issue to be tried.

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted. American Insurance Company provided homeowners and personal property insurance to Unit Owners Mariah Cary and Sinclair Beecham. *See* Attachments E and F to Franklin Tower’s Rule 56.1 Statement.
5. Admitted.
6. Admitted.
7. Admitted in part; denied in part. Plaintiff can neither admit or deny that the Offering Plan was “effective at the time of each subrogee’s purchase of their respective

Residential Unit,” but will admit it for purposes of this Motion. Additionally, Plaintiff denies as a conclusion of law that “the Offering Plan advises Unit Owners that they waive their insurers’ rights of subrogation against the Condominium.” Plaintiff specifically denies that the Offering Plan effectuates a waiver of subrogation.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Plaintiff can neither admit nor deny that the By-Laws were effective at the time of each subrogees’ purchase, but will admit the fact for purposes of this Motion.

13. Denied as conclusions of law.

14. Admitted.

15. Admitted.

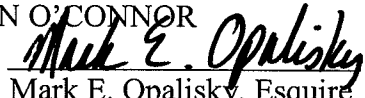
16. Plaintiff admits that Exhibit B to the Wodin Affidavit contains a Condominium Offering Plan. Plaintiff further admits that Exhibits B and C are Unit Deeds for the Carey Units and for the Beecham Units.

17. Plaintiff admits that Mariah Carey and Sinclair C.S. Beecham obtained homeowners and personal property insurance from American, copies of which were attached to Franklin Tower’s Statement of Facts. Plaintiff specifically denies defendant’s characterization and interpretation of the language set forth in each policy.

Respectfully submitted,

COZEN O'CONNOR

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